



Rep. Arthur Turner

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1 AMENDMENT TO SENATE BILL 1358

2 AMENDMENT NO. _____. Amend Senate Bill 1358 as follows:

3 on page 1, line 5, by replacing "Section 10-15.1" with
4 "Sections 10-1, 10-15.1, and 10-16.5"; and

5 on page 1, immediately below line 5, by inserting the
6 following:

7 "(305 ILCS 5/10-1) (from Ch. 23, par. 10-1)

8 Sec. 10-1. Declaration of Public Policy - Persons Eligible
9 for Child Support Enforcement Services - Fees for
10 Non-Applicants and Non-Recipients.) It is the intent of this
11 Code that the financial aid and social welfare services herein
12 provided supplement rather than supplant the primary and
13 continuing obligation of the family unit for self-support to
14 the fullest extent permitted by the resources available to it.
15 This primary and continuing obligation applies whether the

1 family unit of parents and children or of husband and wife
2 remains intact and resides in a common household or whether the
3 unit has been broken by absence of one or more members of the
4 unit. The obligation of the family unit is particularly
5 applicable when a member is in necessitous circumstances and
6 lacks the means of a livelihood compatible with health and
7 well-being.

8 It is the purpose of this Article to provide for locating
9 an absent parent or spouse, for determining his financial
10 circumstances, and for enforcing his legal obligation of
11 support, if he is able to furnish support, in whole or in part.
12 The Department of Healthcare and Family Services shall give
13 priority to establishing, enforcing and collecting the current
14 support obligation, and then to past due support owed to the
15 family unit, except with respect to collections effected
16 through the intercept programs provided for in this Article.

17 The child support enforcement services provided hereunder
18 shall be furnished dependents of an absent parent or spouse who
19 are applicants for or recipients of financial aid under this
20 Code. It is not, however, a condition of eligibility for
21 financial aid that there be no responsible relatives who are
22 reasonably able to provide support. Nor, except as provided in
23 Sections 4-1.7 and 10-8, shall the existence of such relatives
24 or their payment of support contributions disqualify a needy
25 person for financial aid.

26 By accepting financial aid under this Code, a spouse or a

1 parent or other person having custody of a child shall be
2 deemed to have made assignment to the Illinois Department for
3 aid under Articles III, IV, V and VII or to a local
4 governmental unit for aid under Article VI of any and all
5 rights, title, and interest in any support obligation,
6 excluding ~~including~~ statutory interest thereon, up to the
7 amount of financial aid provided. The rights to support
8 assigned to the Department of Healthcare and Family Services
9 (formerly Illinois Department of Public Aid) or local
10 governmental unit shall constitute an obligation owed the State
11 or local governmental unit by the person who is responsible for
12 providing the support, and shall be collectible under all
13 applicable processes.

14 The Department of Healthcare and Family Services shall also
15 furnish the child support enforcement services established
16 under this Article in behalf of persons who are not applicants
17 for or recipients of financial aid under this Code in
18 accordance with the requirements of Title IV, Part D of the
19 Social Security Act. The Department may establish a schedule of
20 reasonable fees, to be paid for the services provided and may
21 deduct a collection fee, not to exceed 10% of the amount
22 collected, from such collection. The Department of Healthcare
23 and Family Services shall cause to be published and distributed
24 publications reasonably calculated to inform the public that
25 individuals who are not recipients of or applicants for public
26 aid under this Code are eligible for the child support

1 enforcement services under this Article X. Such publications
2 shall set forth an explanation, in plain language, that the
3 child support enforcement services program is independent of
4 any public aid program under the Code and that the receiving of
5 child support enforcement services in no way implies that the
6 person receiving such services is receiving public aid.

7 (Source: P.A. 94-90, eff. 1-1-06; 95-331, eff. 8-21-07.); and

8 on page 6, immediately below line 19, by inserting the
9 following:

10 "(305 ILCS 5/10-16.5)

11 Sec. 10-16.5. Interest on support obligations. A support
12 obligation, or any portion of a support obligation, which
13 becomes due and remains unpaid as of the end of each month,
14 excluding the child support that was due for that month to the
15 extent that it was not paid in that month, shall accrue simple
16 interest as set forth in Section 12-109 of the Code of Civil
17 Procedure. An order for support entered or modified on or after
18 January 1, 2006 shall contain a statement that a support
19 obligation required under the order, or any portion of a
20 support obligation required under the order, that becomes due
21 and remains unpaid as of the end of each month, excluding the
22 child support that was due for that month to the extent that it
23 was not paid in that month, shall accrue simple interest as set
24 forth in Section 12-109 of the Code of Civil Procedure. Failure

1 to include the statement in the order for support does not
2 affect the validity of the order or the accrual of interest as
3 provided in this Section.

4 Beginning on the effective date of this amendatory Act of
5 the 98th General Assembly, and notwithstanding any other law to
6 the contrary, the Department shall have no further duty to
7 enforce and collect unassigned interest accrued on support
8 obligations established under this Code or under any other law
9 that are owed to the obligee prior to January 1, 2006. Support
10 that has been deemed to have been assigned to the State under
11 current or previous law shall not accrue past or future
12 interest.

13 In cases in which IV-D services are being provided, the
14 Department shall provide, by rule, for a one-time notice to
15 obligees advising the obligee that he or she must notify the
16 Department within 60 days of the notice that he or she wishes
17 to have the Department compute any unassigned interest that
18 accrued on a specific docket in his or her case between 1987
19 and December 31, 2005. If the obligee fails to notify the
20 Department within the 60-day period, any interest due on that
21 docket prior to 2006 may be pursued by the obligee through a
22 court action, but not through the Department's IV-D agency.

23 (Source: P.A. 94-90, eff. 1-1-06.)

24 Section 10. The Code of Civil Procedure is amended by
25 changing Section 12-109 as follows:

1 (735 ILCS 5/12-109) (from Ch. 110, par. 12-109)

2 Sec. 12-109. Interest on judgments.

3 (a) Every judgment except those arising by operation of law
4 from child support orders shall bear interest thereon as
5 provided in Section 2-1303.

6 (b) Every judgment arising by operation of law from a child
7 support order shall bear interest as provided in this
8 subsection. The interest on judgments arising by operation of
9 law from child support orders shall be calculated by applying
10 one-twelfth of the current statutory interest rate as provided
11 in Section 2-1303 to the unpaid child support balance as of the
12 end of each calendar month. The unpaid child support balance at
13 the end of the month is the total amount of child support
14 ordered, excluding the child support that was due for that
15 month to the extent that it was not paid in that month and
16 including judgments for retroactive child support, less all
17 payments received and applied as set forth in this subsection.
18 The accrued interest shall not be included in the unpaid child
19 support balance when calculating interest at the end of the
20 month. The unpaid child support balance as of the end of each
21 month shall be determined by calculating the current monthly
22 child support obligation and applying all payments received for
23 that month, except federal income tax refund intercepts, first
24 to the current monthly child support obligation and then
25 applying any payments in excess of the current monthly child

1 support obligation to the unpaid child support balance owed
2 from previous months. The current monthly child support
3 obligation shall be determined from the document that
4 established the support obligation. Federal income tax refund
5 intercepts and any payments in excess of the current monthly
6 child support obligation shall be applied to the unpaid child
7 support balance. Any payments in excess of the current monthly
8 child support obligation and the unpaid child support balance
9 shall be applied to the accrued interest on the unpaid child
10 support balance. Interest on child support obligations may be
11 collected by any means available under State law for the
12 collection of child support judgments ~~federal and State laws,~~
13 ~~rules, and regulations providing for the collection of child~~
14 ~~support.~~

15 (Source: P.A. 94-90, eff. 1-1-06.)".